

WEST VIRGINIA INFORMATIONAL LETTER  
INSURANCE COMMISSIONER

No. 2 (Revised)  
May, 1975

STANDARD POLICY PROVISIONS – UNINSURED MOTORISTS INSURANCE

This letter is issued to inform West Virginia insurers of the standard policy provisions promulgated by this department regarding the implementation of the uninsured motorists coverage required by subparagraph (i), Section 31, Article 6, Chapter 33 of the West Virginia Code of 1931, as amended.

All insurers desiring to file with this department for approval policy or endorsement forms containing the language of these standard policy provisions may do so by submitting to this department a letter, in duplicate, requesting approval of these standard policy provisions *by reference* and printed policy forms need not be submitted.

All insurers desiring to file with this department for approval or endorsement forms containing language *other than that* set forth in this letter must file such policy or endorsement forms, in duplicate, with this department. By cover letter accompanying said filing the insurer must set forth the ways in which the forms filed vary from the language used in the standard policy provisions of this letter.

The West Virginia Uninsured Motorists Insurance Standard Policy Provisions are as follows:

WEST VIRGINIA STANDARD POLICY PROVISIONS  
UNINSURED MOTORISTS INSURANCE  
(W. Va. Code § 33-6-31)

In consideration of the payment of the premium for this endorsement, the company agrees with the named insured, subject to the limits of liability, exclusions, conditions and other terms of this endorsement and to the applicable terms of the policy:

SCHEDULE

Limits of Liability:

Bodily Injury	\$10,000 each person
	\$20,000 each accident

Property Damage \$ 5,000 each accident

## INSURING AGREEMENTS

### I. Damages for Bodily Injury and Property Damage Caused by Uninsured Motor Vehicles

To pay all sums which the insured or his legal representative shall be legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle because of:

- (A) Bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury," sustained by the insured;
- (B) Injury to or destruction of (1) an insured motor vehicle owned by the named insured or his spouse if a resident of the same household and the contents of such motor vehicle, and (2) any other property (except a motor vehicle) owned by an insured and located in West Virginia, hereinafter called "property damage";

caused by accident and arising out of the ownership, maintenance or use of such uninsured motor vehicle.

### II. Definitions

(A) Insured -- The unqualified word "insured" means:

- (1) The named insured and, while residents of the same household as the named insured, his spouse and the relatives of either;
- (2) Any other person while occupying an insured motor vehicle; and
- (3) Any person, with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which this endorsement applies sustained by an insured under (1) and (2) above.

The insurance applies separately with respect to each insured hereunder, but neither this provision nor application of the insurance to more than one insured shall operate to increase the limits of the company's liability.

(B) Insured Motor Vehicle -- The term "insured motor vehicle" means:

- (1) A motor vehicle registered in West Virginia which is owned by the named insured or by his spouse if a resident of the same household, and to which the liability coverage of the policy applies;
- (2) A motor vehicle while temporarily used as a substitute for an insured motor vehicle as described in subparagraph (1) above, when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction; or

- (3) Any other motor vehicle while being operated by the named insured, or by his spouse if a resident of the same household.

But the term "insured motor vehicle" shall not include:

- (i) Under subparagraphs (1) and (2) above, a motor vehicle unless being used by or with the permission of the named insured or his spouse if a resident of the same household; or
- (ii) Under subparagraphs (2) and (3) above, a motor vehicle owned by the named insured or by any resident of the same household.

(C) Uninsured Motor Vehicle -- The term "uninsured motor vehicle" means:

- (1) A motor vehicle with respect to the ownership, maintenance or use of which there is, in at least the amounts specified in the West Virginia Motor Vehicle Safety Responsibility Law, neither (i) cash or securities on file with the West Virginia State Treasurer nor (ii) a bodily injury and property damage liability bond or insurance policy, applicable at the time of the accident with respect to any person or organization legally responsible for the use of such automobile, or there is a bodily injury and property damage liability insurance policy applicable at the time of the accident but the company writing the same has legally denied coverage thereunder or such policy is uncollectible in whole or in part because the company writing the same is insolvent or has been placed in receivership; or
- (2) A hit-and-run motor vehicle as defined;

but the term "uninsured motor vehicle" shall not include a motor vehicle

- (i) Which is owned or operated by a self-insurer within the meaning of the West Virginia Motor Vehicle Safety Responsibility Law or any motor carrier law or similar law;
- (ii) Which is owned by the United States of America, the State of West Virginia, a political subdivision thereof or an agency of any of the foregoing;
- (iii) Operated on rails or while located for use as a residence or premises and not as a vehicle; or
- (iv) Designed for use principally off public roads, except while actually upon public roads.

(D) Hit-and-Run Motor Vehicle -- The term "hit-and-run motor vehicle" means a motor vehicle which causes an accident resulting in bodily injury to an insured or property damage arising out of physical contact of such motor vehicle with the

person or property of the insured or with a motor vehicle which the insured is occupying at the time of the accident, provided:

- (1) There cannot be ascertained the identity of either the operator or the owner of such "hit-and-run motor vehicle";
  - (2) Within twenty-four hours after the insured discover, and being physically able to report the occurrence of such accident, the insured, or someone in his behalf, shall report the accident to a police, peace or judicial officer, or to the Commissioner of Motor Vehicles, unless the accident shall already have been investigated by a police officer; and
  - (3) Notify the insurance company, within sixty days after such accident, that the insured or his legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unknown and setting forth the facts in support thereof; and, upon written request of the insurance company communicated to the insured not later than five days after receipt of such statement, shall make available for inspection the motor vehicle which the insured was occupying at the time of the accident.
- (E) Occupying -- The word "occupying" means in or upon or entering into or alighting from.

### III. Policy Period, Territory

This endorsement applies only to accidents which occur on and after the effective date hereof, during the policy period and within the United States of America, its territories or possessions, or Canada.

### EXCLUSIONS

This endorsement does not apply:

- (A) To bodily injury to an insured, care or loss of services recoverable by an insured or injury to or destruction of property of an insured, with respect to which such insured or his legal representative shall, without written consent of the company, make any settlement with any person or organization who may be legally liable therefor;
- (B) To the first three hundred dollars of the amount of property damage to the property of each insured as the result of any one accident;
- (C) So as to insure directly or indirectly to the benefit of any insurer of property, or any workmens compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workmens compensation or disability benefits law or any similar law.

## CONDITIONS

- (A) Policy Provisions -- None of the Insuring Agreements, Exclusions, Conditions or Other Provisions of the policy shall apply to the insurance afforded by this endorsement except the Conditions "Notice" or "Notice of Accident," "Subrogation," "Changes," "Assignment," "Cancellation" and "Declarations"; provided, the "Subrogation" Condition shall not give the company a right of subrogation against any person insured under a policy of liability insurance applicable to the loss if such policy is uncollectible in whole or in part by reason of the insolvency of the company writing the same or if such company has been placed in receivership.
- (B) Premium -- If during the policy period the number of insured motor vehicles owned by the named insured or spouse and registered in West Virginia or the number of West Virginia dealers license plates issued to the named insured changes, the named insured shall notify the company during the policy period of any change and the premium shall be adjusted in accordance with the manuals in use by the company. If the earned premium thus computed exceeds the advance premium paid, the named insured shall pay the excess to the company; if less, the company shall return to the named insured the unearned portion paid by such insured.
- (C) Proof of Claim -- As soon as practicable, the insured or other person making claim shall give to the company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable hereunder. Proof of claim shall be made upon forms furnished by the company unless the company shall have failed to furnish such forms within fifteen days after receiving notice of claim.

The injured person shall submit to physical examinations by physicians selected by the company when and as the company may reasonably require and he, or in the event of his incapacity his legal representative, or in the event of his death his legal representative or the person or persons entitled to sue therefor, shall upon each request from the company execute authorization to enable the company to obtain medical reports and copies of records.

The insured or other person making claim for damage to property shall file proof of loss with the company within sixty days after the occurrence of loss, unless such time is extended in writing by the company, in the form of a sworn statement setting forth the interest of the insured and of all others in the property affected, any encumbrances thereon, the actual cash value thereof at time of loss, the amount, place, time and cause of such loss, and the description and amounts of all other insurance covering such property. Upon the company's request, the insured shall exhibit the damaged property to the company.

(D) Notice of Legal Action -- If, before the company makes payment of loss hereunder, the insured or his legal representative shall institute any legal action for bodily injury or property damage against any person or organization legally responsible for the use of a motor vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the company by the insured or his legal representative.

(E) Limits of Liability

- (1) The limit of bodily injury liability stated in the schedule as applicable to "each person" is the limit of the company's liability for all damages, including damages for care or loss of services, because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting each person, the limit of such liability stated in the schedule as applicable to "each accident" is the total limit of the company's liability for all damages, including damages for care or loss of services, because of bodily injury sustained by two or more persons as the result of any one accident.
- (2) The limit of property damage liability stated in the schedule as applicable to "each accident" is the total limit of the company's liability for all damages arising out of injury to or destruction of all property of one or more insureds as a result of any one accident.
- (3) If claim is made hereunder and claim is also made against any person who is an insured under the Bodily Injury Liability or Property Damage Liability coverages of the policy because of bodily injury or property damage sustained in an accident by a person who is an insured hereunder, any payment made hereunder to or for any such person shall be applied in reduction of any amount which he may be entitled to recover from any person who is an insured under the Bodily Injury Liability or Property Damage Liability coverages; and
- (4) Any amount payable hereunder because of bodily injury or property damage sustained in an accident by a person who is an insured under this coverage shall be reduced by all sums paid on account of such injury or damage by or on behalf of:
  - (i) The owner or operator of the uninsured motor vehicle; and
  - (ii) Any other person or persons jointly or severally liable together with such owner or operator for such injury or damage including all sums paid under the Bodily Injury Liability or Property Damage Liability coverages of the policy.

(F) Payment of Loss by the Company -- Any amount due hereunder is payable to the insured or his legal representative.

- (G) Action Against Company -- No action shall lie against the company unless, as a condition precedent thereto, the insured or his legal representative has fully complied with all the terms of the policy applicable to this coverage.
- (H) This endorsement replaces any other provision of the policy, including any endorsement attached thereto, affording similar insurance with respect to any damages arising out of the ownership, maintenance or use of an uninsured vehicle or a hit-and-run vehicle.

Donald W. Brown  
Insurance Commissioner